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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,197	03/29/2004	Kaila R. Thompson		9658

7590  
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680 92nd Ave. North  
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05/18/2007

EXAMINER

SIMMONS, CHRIS E

ART UNIT	PAPER NUMBER
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1609

MAIL DATE	DELIVERY MODE
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05/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/815,197		THOMPSON, KAILA R.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Chris E. Simmons		1609	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 August 2004 AND 29 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6 is/are rejected.
- 7) ☒ Claim(s) 1-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.

It does not include the notary's signature, or the notary's signature is in the wrong place.

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

### ***Claim Objections***

2. Claim 5 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim shall refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

3. Claim 6 is objected to because of the following informalities: "exmittance" should be corrected to emittance. Appropriate correction is required.

Art Unit: 1609

4. Claims 1-6 are objected to because the lines are crowded too closely together, making reading difficult. Substitute claims with lines one and one-half or double spaced on good quality paper are required. See 37 CFR 1.52(b).

### ***Specification***

The disclosure is objected to because of the following informalities: in the second sentence of the paragraph under *SUMMARY OF THE INVENTION* on page 1, the "t" should be deleted in "all t types".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 – 4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform to current U.S. practice. Multi-sentence format for claims is improper. A single sentence format is required for each claim. Each claim must end with a period. A period within a claim is improper except when used to abbreviate.

Correction is required.

Art Unit: 1609

The claims will be examined on the merits as to what examiner believes applicant's invention to be.

7. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim fails to specify the particular figure(s) to which it refers.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-2, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Gray (WO '9732613).

Gray teaches a bandage or wound dressing with the anti-microbial Triclosan incorporated therein (abstract and pages 4-5). The bandage or wound dressing is fully capable to be formed to fit an apparatus.

Art Unit: 1609

10. Claims 1-2, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Knieler et al. 6,160,196.

Knieler et al. teach a bandage or wound dressing with the anti-microbial incorporated therein (col. 2, lines 29-49). The bandage or wound dressing is fully capable of being formed to fit an apparatus.

11. Claims 1-2, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamaguchi et al. (US Pat 5945211).

Yamaguchi et al. teaches the antimicrobial, zinc oxide, adhered to a substrate which may have any shape. The substrate may be selected from fibers, fibrous products such as woven and nonwoven fabrics, paper products and films. The substrates are fully capable of being formed to fit an apparatus. (see ¶ 24)

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

Art Unit: 1609

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray (WO '9732613) in view of Podell et al. (US Patent 5419913 – hereinafter referred to as “Podell”).

Gray does not expressly teach the shape as square or rectangle. Gray however teaches that the invention disclosed by Gray is adapted to **conform** to the treatment site. (See last paragraph on page 1 under *Background*.)

**Conform** is defined by Webster’s Dictionary as: “to give the same shape, outline, or contour to”.

Furthermore, Podell teaches an adhesive bandage, wound dressing, suture-like mechanism, or surgical drape for use over a wound. The bandage, wound dressing, suture-like mechanism, or surgical drape may take various shapes, sizes, and arrangements. (see abstract). For example, an adhesive bandage (or wound dressing or drape – see column 4 lines 38-41) may take the shape of a rectangle, a square, a circle, an oval, a barbell, etc. (see column 5 lines 30-33).

It would have been obvious to one of ordinary skill in the art at the time of the invention to form the dressing into a square or rectangle.

One would have been motivated to do so to cover particular sizes and shapes of areas the invention is to be applied to (for example, wounds). (See column 8 lines 7-11.)

Art Unit: 1609

15. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knieler et al. (US Pat 6160196) in view of Gray (WO '9732613).

Knieler does not expressly teach the shape as square or rectangle

Gray however teaches that the invention disclosed by Gray is adapted to **conform** to the treatment site. (See last paragraph on page 1 under *Background*.)

**Conform** is defined by Webster's Dictionary as: "to give the same shape, outline, or contour to".

Furthermore, Podell teaches an adhesive bandage, wound dressing, suture-like mechanism, or surgical drape for use over a wound. The bandage, wound dressing, suture-like mechanism, or surgical drape may take various shapes, sizes, and arrangements. (see abstract). For example, an adhesive bandage (or wound dressing or drape – see column 4 lines 38-41) may take the shape of a rectangle, a square, a circle, an oval, a barbell, etc. (see column 5 lines 30-33).

It would have been obvious to one of ordinary skill in the art at the time of the invention to form the dressing into a square or rectangle.

One would have been motivated to do so to cover particular sizes and shapes of areas the invention is to be applied to (for example, wounds). (See column 8 lines 7-11.)

16. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi et al. (US Pat 5945211) in view of Gray (WO '9732613).

Yamaguchi et al. does not expressly teach the shape as square or rectangle.



Art Unit: 1609

Gray however teaches that the invention disclosed by Gray is adapted to **conform** to the treatment site. (See last paragraph on page 1 under *Background*.)

**Conform** is defined by Webster's Dictionary as: "to give the same shape, outline, or contour to".

Furthermore, Podell teaches an adhesive bandage, wound dressing, suture-like mechanism, or surgical drape for use over a wound. The bandage, wound dressing, suture-like mechanism, or surgical drape may take various shapes, sizes, and arrangements. (see abstract). For example, an adhesive bandage (or wound dressing or drape – see column 4 lines 38-41) may take the shape of a rectangle, a square, a circle, an oval, a barbell, etc. (see column 5 lines 30-33).

It would have been obvious to one of ordinary skill in the art at the time of the invention to form the dressing into a square or rectangle.

One would have been motivated to do so to cover particular sizes and shapes of areas the invention is to be applied to (for example, wounds). (See column 8 lines 7-11.)

### ***Conclusion***

17. The following are pertinent prior art not relied upon for instant rejection of claims:

US 5176665	US 5976117
WO 9302717	US 6716805
US 5290269	US 2004/0092896

Art Unit: 1609

18. No claims are allowed.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris E. Simmons whose telephone number is (571) 272-9065. The examiner can normally be reached on Monday - Friday from 7:30 - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecelia Tsang can be reached on (571) 272-1600. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Chris Simmons/CES

  
VICKIE KIM  
PRIMARY EXAMINER